

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

MEMORANDUM OF OPINION

The plaintiff alleges that the defendants failed to provide him adequate or appropriate medical attention in violation of his Eighth Amendment right to be free from cruel and unusual punishment—that the defendants were deliberately indifferent to his medical needs. The magistrate judge filed a report on November 20, 2015, recommending that the court dismiss this action without prejudice for failure to exhaust administrative remedies. In the alternative, the magistrate judge recommends that the court treat the defendants' report as a motion for summary judgment and grant the motion. (Doc. 49). Neither party filed any objections.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the court ADOPTS the magistrate judge's report and ACCEPTS his recommendation. The court finds that the plaintiff's deliberate indifference claims are due to be dismissed without prejudice for

failure to exhaust administrate remedies. Alternatively, the court EXPRESSLY FINDS that no genuine issues of material fact exist on the deliberate indifference claims; that the defendants are entitled to judgment as a matter of law on those claims; and that the defendants' motion for summary judgment (doc. 45) is due to be GRANTED.

The court will enter a separate Final Order.

DONE and ORDERED this 16th day of December, 2015.



KARON OWEN BOWDRE
CHIEF UNITED STATES DISTRICT JUDGE